

# HOUSE BILL NO. 743

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Text to be added within a bill has been marked with Bold and Underline. Text to be removed has been marked with Strikethrough and Italic. How these codes are actually displayed will vary based on the browser software you are using.

**This sentence is marked with bold and underline to show added text.**

~~*This sentence is marked with strikethrough and italic, indicating text to be removed.*~~

## Bill Status

H0743.....by WAYS AND MEANS  
SCHOOL FACILITIES IMPROVEMENT - Adds to and amends existing law relating to school facilities improvement to provide legislative intent; to provide references to the appointing authority of the State Board of Education and the Superintendent of Public Instruction; to require use of payments from the School District Building Account and to delete certain reporting requirements; to remove the limitation on state financial assistance only for the interest cost portion of the annual bond interest and redemption payment; to provide application to school districts with an index value of less than one and one-half; to provide a Public School Facilities Cooperative Funding Program; to create a Public School Facilities Cooperative Fund; to provide for school building maintenance matching funds; to require school districts to annually deposit an amount equal to a minimum of two percent of the replacement value of school buildings to a school building maintenance fund, less the amount deposited from state funds; to provide for calculation of the state's appropriation; to provide for a state appropriation; to provide for use of the fund moneys; to direct the Administrator of the Division of Building Safety and the State Department of Education to draft a best practices maintenance plan for school buildings; to provide definitions; to provide a condition under which the administrator shall submit an application to the Public School Facilities Cooperative Fund panel to abate an identified safety hazard; to provide that an amount equal to the annual General Fund appropriation for bond levy equalization shall be annually distributed to the General Fund; and to transfer and appropriate \$25,000,000 from the General Fund to the Public School Facilities Cooperative Fund.

02/28 House intro - 1st rdg - to printing

03/01 Rpt prt - to Educ

03/02 Rpt out - rec d/p - to 2nd rdg

03/03 2nd rdg - to 3rd rdg

03/08 3rd rdg - PASSED - 52-14-4

AYES -- Anderson, Andrus, Barraclough, Barrett, Bastian, Bayer, Bedke, Bell, Bilbao, Black, Block, Bolz, Brackett, Bradford, Cannon, Chadderdon, Clark, Collins, Deal, Denney, Edmunson, Ellsworth, Eskridge, Field(18), Field(23), Garrett, Hart, Harwood, Henderson, Kemp, Lake, Loertscher, Mathews, McGeachin, McKague, Miller, Moyle, Nielsen, Nonini, Raybould, Ring, Rydalch, Sali, Schaefer, Shepherd(8), Shirley, Skippen, Smylie, Snodgrass, Stevenson, Wills, Mr. Speaker

NAYS -- Boe, Henbest, Jaquet, LeFavour, Martinez, Mitchell, Pasley-Stuart, Pence, Ringo, Rusche, Sayler, Shepherd(2), Smith(30), Trail

Absent and excused -- Crow, Roberts, Smith(24), Wood

Floor Sponsors - Denney & Bedke

Title apvd - to Senate

03/09 Senate intro - 1st rdg - to Educ  
 03/15 Rpt out - Ref'd to St Aff  
 03/21 Rpt out - rec d/p - to 2nd rdg  
 03/22 2nd rdg - to 3rd rdg  
 03/23 3rd rdg - PASSED - 22-12-1  
 AYES -- Broadsword, Burtenshaw, Cameron, Coiner, Compton, Corder,  
 Darrington, Davis, Fulcher, Geddes, Goedde, Hill, Jorgenson, Keough,  
 Little, Lodge, McGee, McKenzie, Pearce, Richardson, Sweet, Williams  
 NAYS -- Andreason, Brandt, Burkett(Clark), Gannon, Kelly, Langhorst,  
 Malepeai, Marley, Schroeder, Stegner, Stennett, Werk  
 Absent and excused -- Bunderson  
 Floor Sponsors - McKenzie & Keough  
 Title apvd - to House  
 03/24 To enrol  
 03/27 Rpt enrol - Sp signed  
 03/28 Pres signed  
 03/29 To Governor  
 03/31 Governor signed  
 Session Law Chapter 311  
 Effective: 07/01/06

## Bill Text

]]]] LEGISLATURE OF THE STATE OF IDAHO ]]]]  
 Fifty-eighth Legislature Second Regular Session - 2006

### IN THE HOUSE OF REPRESENTATIVES

#### HOUSE BILL NO. 743

#### BY WAYS AND MEANS COMMITTEE

1 AN ACT  
 2 RELATING TO THE SCHOOL FACILITIES IMPROVEMENT ACT; PROVIDING LEGISLATIVE FIND-  
 3 INGS AND INTENT; AMENDING SECTION 6-2212, IDAHO CODE, TO PROVIDE REFER-  
 4 ENCES TO THE APPOINTING AUTHORITY OF THE STATE BOARD OF EDUCATION AND TO  
 5 THE SUPERINTENDENT OF PUBLIC INSTRUCTION AND TO MAKE TECHNICAL CHANGES;  
 6 AMENDING SECTION 33-905, IDAHO CODE, TO PROVIDE PROPER TERMINOLOGY, TO  
 7 DELETE OBSOLETE LANGUAGE, TO PROVIDE FOR DISTRIBUTION OF ADDITIONAL  
 8 MONEYS, TO REQUIRE USE OF PAYMENTS FROM THE SCHOOL DISTRICT BUILDING  
 9 ACCOUNT AND TO DELETE CERTAIN REPORTING REQUIREMENTS; AMENDING SECTION  
 10 33-906, IDAHO CODE, TO REMOVE THE LIMITATION ON STATE FINANCIAL ASSISTANCE  
 11 ONLY FOR THE INTEREST COST PORTION OF THE ANNUAL BOND INTEREST AND REDEMP-  
 12 TION PAYMENT AND TO PROVIDE FOR CERTAIN APPLICATION TO SCHOOL DISTRICTS  
 13 WITH AN INDEX VALUE OF LESS THAN ONE AND ONE-HALF; AMENDING SECTION  
 14 33-907, IDAHO CODE, TO PROVIDE CODE REFERENCES; AMENDING CHAPTER 9, TITLE  
 15 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-909, IDAHO CODE, TO  
 16 PROVIDE A PUBLIC SCHOOL FACILITIES COOPERATIVE FUNDING PROGRAM AND TO CRE-  
 17 ATE A PUBLIC SCHOOL FACILITIES COOPERATIVE FUND; AMENDING CHAPTER 10,  
 18 TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-1018B, IDAHO  
 19 CODE, TO PROVIDE FOR SCHOOL BUILDING MAINTENANCE MATCHING FUNDS; AMENDING  
 20 CHAPTER 10, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION  
 21 33-1019, IDAHO CODE, TO REQUIRE SCHOOL DISTRICTS TO ANNUALLY DEPOSIT AN  
 22 AMOUNT EQUAL TO A MINIMUM OF TWO PERCENT OF THE REPLACEMENT VALUE OF  
 23 SCHOOL BUILDINGS TO A SCHOOL BUILDING MAINTENANCE FUND LESS THE AMOUNT  
 24 DEPOSITED FROM STATE FUNDS, TO PROVIDE FOR CALCULATION OF THE STATE'S  
 25 APPROPRIATION, TO PROVIDE FOR A STATE APPROPRIATION, TO PROVIDE FOR USE OF  
 26 THE FUND MONEYS AND TO PROVIDE DEFINITIONS; AMENDING CHAPTER 80, TITLE 39,  
 27 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-8006A, IDAHO CODE, TO  
 28 DIRECT THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY AND THE STATE  
 29 DEPARTMENT OF EDUCATION TO DRAFT A BEST PRACTICES MAINTENANCE PLAN FOR  
 30 SCHOOL BUILDINGS; AMENDING SECTION 39-8011, IDAHO CODE, TO PROVIDE A CON-

DITION UNDER WHICH THE ADMINISTRATOR SHALL SUBMIT AN APPLICATION TO THE PUBLIC SCHOOL FACILITIES COOPERATIVE FUND PANEL TO ABATE AN IDENTIFIED SAFETY HAZARD; AMENDING SECTION 63-2520, IDAHO CODE, TO PROVIDE THAT AN AMOUNT EQUAL TO THE ANNUAL GENERAL FUND APPROPRIATION FOR BOND LEVY EQUALIZATION SHALL BE ANNUALLY DISTRIBUTED TO THE GENERAL FUND; TRANSFERRING AND APPROPRIATING \$25,000,000 FROM THE GENERAL FUND TO THE PUBLIC SCHOOL FACILITIES COOPERATIVE FUND; AND PROVIDING NONSEVERABILITY WITH EXCEPTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. LEGISLATIVE FINDINGS AND INTENT. The Legislature hereby finds that:

(1) Section 1, Article IX, of the Constitution of the state of Idaho provides that "it shall be the duty of the legislature of Idaho, to establish and maintain a general, uniform and thorough system of public, free common

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schools."

(2) In the case of Idaho Schools for Equal Educational Opportunity v. Evans, 123 Idaho 573 (1993), the Idaho Supreme Court held that the then existing State Board of Education rules for school facilities, textbooks and curriculum, and transportation systems were consistent with the thoroughness requirements of Section 1, Article IX, of the Constitution of the state of Idaho. The Supreme Court remanded the case for trial to determine if the system of funding was providing such school facilities, textbooks and curriculum, and transportation systems called for in the rules.

(3) In response to that action, the Legislature enacted Section 33-1612, Idaho Code, which defined thoroughness and included "a safe environment conducive to learning" among the statutory definitions of thoroughness.

(4) In a subsequent ruling in the same case, Idaho Schools for Equal Educational Opportunity v. State, 132 Idaho 559 (1999), the Idaho Supreme Court held that the statutory requirement of "a safe environment conducive to learning" and the rules adopted pursuant to it were consistent with the thoroughness requirements of Section 1, Article IX, of the Constitution of the state of Idaho, and that such a safe environment was inherently part of a thorough system of public, free common schools required by Section 1, Article IX, of the Constitution of the state of Idaho. The Supreme Court remanded the case to the district court to determine whether the funding system was providing a safe environment conducive to learning.

(5) On February 5, 2001, the Fourth Judicial District Court entered findings of fact and conclusions of law that the system of school funding then in existence was constitutionally deficient in its ability to repair or replace dangerous or unsafe conditions in school buildings.

(6) On December 21, 2005, on appeal to the Supreme Court, the Idaho Supreme Court affirmed the district court's February 5, 2001, decision and said:

In sum, the evidence in the record clearly supports the district court's 2001 Findings. We affirm the conclusion of the district court that the current funding system is simply not sufficient to carry out the Legislature's duty under the constitution. While the Legislature has made laudable efforts to address the safety concerns of various school districts, the task is not yet complete. The appropriate remedy, however, must be fashioned by the Legislature and not this Court. Quite simply, Article IX of our constitution means what it says: "[I]t shall be the duty of the Legislature of Idaho, to establish and maintain a general, uniform and thorough system of public, free common schools." Thus, it is the duty of the State, and not this Court or the local school districts, to meet this constitutional mandate.

(7) In response to the Supreme Court's 2005 decision, and mindful that the Supreme Court has recognized the Legislature's efforts, following the district court's decision in 2001, to provide a system of funding that provides safe schools, it is the purpose of this Act to fulfill the Legislature's responsibility under Section 1, Article IX, of the Constitution of the state

of Idaho, by establishing an ongoing, state-funded system for funding repair or replacement of unsafe school facilities in a manner that fairly and equitably balances the state and local contributions. It requires funds to be dedicated to maintenance to arrest deterioration of schools before they become unsafe.

(8) In proposing this Act, it is the intent of the Legislature to:

(a) Amend the statutes addressing the School District Building Account to provide an ongoing means of providing funds from that account for the pur-

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pose of assisting school districts to fund repair or replacement of unsafe school facilities; and

(b) Remove all artificial limits on the functioning of the bond levy equalization value index. The index measures a school district's relative ability to pay, and provides a secure, ongoing revenue source for the bond levy equalization program, enabling each school district's full share of state lottery funds to be used for school building maintenance and repairs; and

(c) Establish an ongoing School Facilities Cooperative Funding Program to assist school districts to fund repair or replacement of unsafe school buildings when school districts are unable to fund necessary repair or replacement; and

(d) Provide ongoing, fair and equitable state assistance to school districts under the School Facilities Cooperative Funding Program whereby the state initially funds the total cost of repair and replacement that school districts are unable to fund themselves. It creates the necessary taxing authority to pay the school district's share of the cost of repair or replacement, and establishes a statutory formula to annually determine the school district's fair and equitable share of the costs of repair or replacement that compares the school district's bonds and/or plant facilities levy rates to the statewide average bond and/or facility levy rate; and

(e) Require each school district to annually set aside an adequate amount of moneys for the exclusive purpose of school building maintenance in order to arrest deterioration in school facilities that have lead to unsafe conditions and to provide a sliding scale of state match subsidies for this amount based upon the school district's relative ability to pay.

SECTION 2. That Section 6-2212, Idaho Code, be, and the same is hereby amended to read as follows:

6-2212. STATE SUPERVISION. When authorized ~~in this chapter by law~~, the district court, or the state board of education pursuant to section 33-909, Idaho Code, may issue an order for state supervision of a local school district. When an order for state supervision of a local school district is entered by the district court, the superintendent of public instruction shall within thirty-five (35) calendar days appoint, at local school district expense, an officer to be known as a district supervisor. When an order for state supervision of a local school district is entered by the state board of education, the district supervisor shall be appointed pursuant to section 33-909, Idaho Code, at local school district expense. The district supervisor shall have authority to approve or disapprove any actions of the board of the local school district, to supervise or dismiss superintendents, ~~assistance~~ assistant superintendents, and any other district administrative personnel, and to take any actions necessary to further the local school district's obligations to provide constitutionally required educational services. In the case of appointment by the superintendent of public instruction, the district supervisor shall serve at the pleasure of the superintendent of public instruction until removed by the superintendent of public instruction or the superintendent of public instruction reports to the district court that the local school district is in substantial compliance with its obligations to provide constitutionally required educational services, or until the district court, upon its own motion or upon motion of any of the parties, orders state supervision to end. In the case of appointment by the state board of education, the district supervisor shall serve pursuant to section 33-909, Idaho

**Code.**

SECTION 3. That Section 33-905, Idaho Code, be, and the same is hereby amended to read as follows:

33-905. SCHOOL DISTRICT BUILDING ACCOUNT -- PAYMENTS TO ACCOUNT -- MONEYS APPROPRIATED TO STATE BOARD -- APPLICATION FOR MONEYS -- PAYMENTS TO DISTRICTS -- REPORTS ON APPLICATIONS -- USES OF MONEYS. ~~(1-)~~ The state of Idaho, ~~recognizing in order to fulfill~~ its responsibility to establish and maintain a general, uniform and thorough system of public, free common schools, ~~in an effort to partially fulfill this responsibility,~~ hereby creates and establishes the school district building account in the state treasury. The school district building account shall have paid into it such appropriations or revenues as may be provided by law.

~~(2-) Moneys in the school district building account are hereby appropriated to and may be expended by the state board of education at any time for the purposes provided in this section, any provision of chapter 35, title 67, Idaho Code, or chapter 36, title 67, Idaho Code, notwithstanding.~~

~~3. (a) As to any moneys in the account other than lottery dividends distributed pursuant to subsection 4. of this section, the board of trustees of any school district may apply to the state board of education to receive a payment or payments from the school district building account, provided, a district demonstrates to the state board of education that it has a substantial and serious need based upon the district's classroom student teacher ratios, past efforts to levy for such construction, physical condition of existing structures, and the total assessed market value of the district, all of which shall be further defined by actual need criteria established by the state board of education.~~

~~(b) When an application for moneys from the account is approved by the state board of education, the state board shall inform the school district that the application has been approved, citing the amount approved for payment and an estimate of the time when the payment can actually be made to the school district.~~

~~4-~~ By not later than August 31, moneys in the account pursuant to distribution from section 67-7434, Idaho Code, the lottery dividends and interest earned thereon, shall be distributed to each of the several school districts, in the proportion that the average daily attendance of that district for the previous school year bears to the total average daily attendance of the state during the previous school year. For the purposes of this subsection ~~4-(2)~~ only, the Idaho school for the deaf and blind shall be considered a school district, and shall receive a distribution based upon the average daily attendance of the school. Average daily attendance shall be calculated as provided in section 33-1002 ~~45.~~, Idaho Code.

(3) Any other state moneys that may be made available shall be distributed to meet the requirements of section 33-1019, Idaho Code. If the amount of such funds exceeds the amount needed to meet the provisions of section 33-1019, Idaho Code, then the excess balance shall be transferred to the public education stabilization fund.

~~5-(4)~~ All payments from the school district building account shall be paid out directly to the school district in warrants drawn by the state controller upon presentation of proper vouchers from the state board of education. Pending payments out of the school district building account, the moneys in the account shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other idle moneys in the state treasury. Interest earned on the investments shall be returned to

the school district building account.

~~6-(5)~~ Payments from the school district building account received by a school district ~~may~~ shall be used by the school district for the purposes authorized in section 33-~~1102~~1019, Idaho Code, up to the level of the state match so required. Any payments from the school district building account

received by a school district that are in excess of the state match requirements of section 33-1019, Idaho Code, may be used by the school district for the purposes authorized in section 33-1102, Idaho Code.

~~7. (a) By not later than December 1, each school district shall report to the state department of education the projects on which moneys received from the school district building account were expended. The state department of education shall transmit a summary of such reports to the legislature by not later than January 15 of the following year.~~

~~(b) By not later than December 1, each school district shall report to the state department of education the planned uses for the moneys received from the school district building account. The state department of education shall transmit a summary of the reports to the legislature by not later than January 15 of the following year.~~

SECTION 4. That Section 33-906, Idaho Code, be, and the same is hereby amended to read as follows:

33-906. BOND LEVY EQUALIZATION SUPPORT PROGRAM. (1) Pursuant to section 33-906B, Idaho Code, school districts with a value index below one (1) shall be eligible to receive additional state financial assistance for the cost of annual bond interest and redemption payments made on bonds passed on or after September 15, 2002. However, any school district with a value index of less than one and one-half (1.5), shall receive no less than ten percent (10%) of the interest cost portion of the annual bond interest and redemption payment for bonds passed on or after September 15, 2002. The state department of education shall disburse such funds to school districts from moneys appropriated from the bond levy equalization fund. The department shall disburse the funds by no later than September 1 of each year for school districts in which voters have approved the issuance of qualifying bonds by no later than January 1 of that calendar year, and which are certifying a qualifying bond interest and redemption payment for the fiscal year in which the disbursement is made. For districts with a value index below one (1), the percentage of each annual bond interest and redemption payment that is paid by the state shall be determined by dividing the difference between one (1) and the school district's value index by one (1). ~~provided that the state shall pay for no more than the interest cost portion of the annual bond interest and redemption payment, and each school district shall receive no less than ten percent (10%) of the interest cost portion of the qualifying bond interest and redemption payment.~~

(2) For the purposes of this section, the annual bond interest and redemption payment shall be determined by dividing the total payment amounts by the number of fiscal years in which payments are to be made. The interest cost portion of the annual bond interest and redemption payment shall be determined by dividing the total interest paid by the number of fiscal years in which payments are to be made. For school districts not qualifying for a state payment in the first year of the bond interest and redemption payment schedule, due solely to the January 1 eligibility deadline, the state department of education shall distribute an additional payment in the next fiscal year, in the amount of such funds that the school district would have otherwise qualified for in the current fiscal year.

(3) The provisions of this section may not be utilized to refinance

existing debt or subsidize projects previously subsidized by state grants; provided however, that any school district that has issued qualifying bonds prior to June 30, 2004, in conformance with this section shall not be deemed to be refinancing existing debt when the qualifying bonds are utilized to finance the acquisition of public school facilities previously leased or financed through means other than the issuance of general obligation bonds approved by a two-thirds (2/3) vote at an election called for that purpose subject to subsection (5) of this section.

(4) School districts shall annually report the status of all qualifying bonds to the state department of education by January 1 of each year, including bonds approved by the voters, but not yet issued. Information submitted shall include the following:

(a) The actual or estimated bond interest and redemption payment sched-

ule;

(b) Any qualifying bond that has been paid off;

(c) Other information as may be required by the state department of education.

(5) No school district eligible for participation in the bond levy equalization support program shall be deemed ineligible for participation due to that school district's eligibility and prior participation in the safe school facilities loan and grant program or the Idaho safe schools facilities program under section 33-804A, 33-1017 or 33-1613, Idaho Code, provided that:

(a) Such school district notifies the state department of education of its desire and eligibility to participate in the bond levy equalization support program; and

(b) Such school district shall receive no state financial assistance under the bond levy equalization support program until the amount to which it would otherwise have been entitled to receive shall equal the amounts received by the school district under the safe school facilities loan and grant program or the Idaho safe schools facilities program under section 33-804A, 33-1017 or 33-1613, Idaho Code.

SECTION 5. That Section 33-907, Idaho Code, be, and the same is hereby amended to read as follows:

33-907. PUBLIC EDUCATION STABILIZATION FUND. There is hereby created in the state treasury a fund to be known as the public education stabilization fund, which shall function as a fund detail of the public school income fund. The fund shall consist of moneys transferred to the fund according to the provisions of sections 33-905 and 33-1018, Idaho Code, and any other moneys made available through legislative transfers or appropriations. Moneys in the fund are hereby continuously appropriated for the purposes stated in sections 33-1018 and 33-1018B, Idaho Code, and shall only be expended for the purposes stated in sections 33-1018, and 33-1018A and 33-1018B, Idaho Code. Any accumulated balances in the fund that are in excess of ~~three~~ five percent (~~35~~5%) of the current fiscal year's total general fund appropriation for public school support shall be transferred to the bond levy equalization fund. Interest earned from the investment of moneys in the fund shall be credited to the public school income fund.

SECTION 6. That Chapter 9, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-909, Idaho Code, and to read as follows:

33-909. PUBLIC SCHOOL FACILITIES COOPERATIVE FUNDING PROGRAM -- FUND CRE-

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ATED. (1) In fulfillment of the constitutional requirement to provide a general, uniform and thorough system of public, free common schools, it is the intent of the state of Idaho to advance its responsibility for providing a safe environment conducive to learning by providing a public school facilities funding program to enable qualifying school districts to address unsafe facilities identified as unsafe under the standards of the Idaho uniform school building safety act.

(2) Participation in the program, for the purpose of obtaining state financial support to abate identified school building safety hazards, requires submission of an application to the public school facilities cooperative funding program panel. Application can be made by:

(a) Any school district that has failed to approve at least one (1) or more bond levies for the repair, renovation or replacement of existing unsafe facilities, within the two (2) year period immediately preceding submission of the application; or

(b) The administrator of the division of building safety, for a school district that has failed to address identified unsafe facilities as provided in chapter 80, title 39, Idaho Code.

(3) There is hereby created within the office of the state board of education the Idaho public school facilities cooperative funding program panel, hereafter referred to as the panel. The panel shall consist of the administra-

tor of the division of building safety, the administrator of the division of public works and the executive director of the state board of education, or a designee appointed by a panel member. It shall be the duty of the panel to consider all applications made to it, and to either approve, modify or reject an application based on the most economical solution to the problem, as analyzed within a projected twenty (20) year time frame.

(4) The application shall contain the following information:

(a) The identified school building safety hazards and such other information necessary to document the deficiencies;

(b) The school district's plan for abating the defects, including costs and sources and amounts of revenue available to the school district;

(c) The market value for assessment purposes of the school district; and

(d) A detailed accounting of all bond and plant facility levies of the school district and the revenues raised by such levies.

For applications initiated by the administrator of the division of building safety pursuant to subsection (2)(b) of this section, the school district shall provide the information required in this subsection (4) if such information is not available to the administrator.

(5) In considering an application, the panel shall determine whether the plan as proposed is acceptable, or is acceptable with modifications as determined by the panel, or should be rejected. The panel shall notify the applicant of its decision, in writing, within sixty (60) days of receiving the application. At the same time the panel notifies the applicant, the panel shall send notification of an approved application or a modified application to the state board of education, along with the panel's specifications for the project and its cost.

(6) If an application received from a school district is accepted or modified by the panel, the local board of trustees of that school district, at the next election held pursuant to section 34-106, Idaho Code, shall submit the question to the qualified electors of the school district of whether to approve a bond in the amount of the cost of the project as approved by the panel.

(7) Within thirty-five (35) calendar days of receiving notification from the panel that an application submitted by the administrator of the division

of building safety pursuant to subsection (2)(b) of this section has been approved or modified by the panel, or within thirty-five (35) calendar days of receiving certification from the panel that the question submitted to the electorate pursuant to subsection (6) of this section was not approved in the election, the state board of education shall appoint a district supervisor for interim state supervision of the local school district. The district supervisor shall be responsible for ensuring that the project, as approved by the panel, is completed and shall regularly report to the panel in a manner as determined by the panel upon approval of the project. The district supervisor shall also have the authority granted to said position by the provisions of section 6-2212, Idaho Code. A district supervisor's term of service shall continue for the duration of the project, and such person appointed as a district supervisor shall serve at the pleasure of the state board of education.

(8) Upon approval of an application or a modified application submitted by the administrator of the division of building safety pursuant to subsection (2)(b) of this section, or upon receipt of certification from the county that the question submitted to the electorate pursuant to subsection (6) of this section was not approved in the election, the panel shall certify the cost of the project, as approved by the panel, to the state department of education.

(a) The total cost of the project shall initially be paid by the state from the public school facilities cooperative fund.

(b) The district's share of costs that may be repaid through the levy provisions of this section shall not exceed the district's share of bond payment costs as calculated for the bond levy equalization support program in the fiscal year in which the application is made. Interest shall be charged on the unpaid balance of the district's share of costs, as such balance exists at the end of each fiscal year, at the rate of interest earned by the state treasurer on the investment of idle funds in that fiscal year.



(c) It shall be the responsibility of the state department of education to calculate a state-authorized plant facilities levy rate in accordance with the provisions of subsection (9) of this section, which, when imposed over a maximum period not to exceed twenty (20) years, may yield the revenues needed to repay the school district's share of the cost of the project.

(d) The levy rate calculated by the state department of education shall be certified by the department to the county or counties wherein the boundaries of the school district are contained, for assessment of the levy and collection of the revenues by such county or counties in the manner provided by law. The revenues collected by imposition of the state-authorized plant facilities levy shall be remitted to the state treasurer for deposit to the public school facilities cooperative fund.

(9) The annual state-authorized plant facilities levy rate shall be limited to the greater of:

(a) The difference between the school district's combined bond and plant facilities levy rates, and the statewide average bond and plant facility levy rates; or

(b) The statewide average plant facility levy rate.

The initial levy rate so calculated shall be established as the minimum levy rate that shall be imposed for the amount of time required to reimburse the state for the school district's share of the project cost, but not to exceed twenty (20) years, even if this period would not provide reimbursement of the entire amount of the school district's share of the cost of the project. The state department of education is authorized and directed to recalculate the levy rate on an annual basis, and is authorized to increase or decrease the

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levy rate according to the scheduled payback, but the levy rate shall not be less than the levy rate initially imposed. Provided however, if the levy rate calculated is estimated to raise more money than would be necessary to repay the district's share of costs, then the state department of education shall certify to the county or counties wherein the boundaries of the school district are contained, the moneys necessary to repay the district's share of costs.

(10) There is hereby created in the state treasury a public school facilities cooperative fund. The fund shall contain such moneys as may be directed pursuant to appropriation. Moneys in the fund shall be used exclusively to finance the public school facilities cooperative funding program, and are hereby continuously appropriated for such purposes as authorized by this section. Moneys in the fund shall be invested by the state treasurer in the same manner as provided under section 67-1210, Idaho Code, with respect to other idle moneys in the state treasury. Interest earned on the investments shall be credited to the school district building account.

SECTION 7. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a **NEW SECTION**, to be known and designated as Section 33-1018B, Idaho Code, and to read as follows:

33-1018B. SCHOOL BUILDING MAINTENANCE MATCHING FUNDS. If the amount of money appropriated from the school district building account created in section 33-905, Idaho Code, is insufficient to meet the state matching fund requirements of section 33-1019, Idaho Code, then such insufficiency shall be made up with a distribution from the public education stabilization fund created in section 33-907, Idaho Code.

SECTION 8. That Chapter 10, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a **NEW SECTION**, to be known and designated as Section 33-1019, Idaho Code, and to read as follows:

33-1019. ALLOCATION FOR SCHOOL BUILDING MAINTENANCE REQUIRED. (1) School districts shall annually deposit to a school building maintenance fund moneys from any source available to the district equal to at least two percent (2%) of the replacement value of school buildings, less the deposit of state funds as provided in this section. The state shall annually provide funds to be

deposited into the school building maintenance fund as follows:

(a) Divide one (1) by the school district's value index for the fiscal year, as calculated pursuant to section 33-906B, Idaho Code; and

(b) Multiply the result by one-half of one percent (0.5%) of the replacement value of school buildings.

(c) For purposes of the calculation in this subsection (1), public charter schools shall be assigned a value index of one (1).

(2) State funds shall be appropriated through the educational support program/division of facilities, and disbursed from the school district building account. The order of funding sources used to meet the state funding requirements of this section shall be as follows:

(a) State lottery funds distributed pursuant to section 33-905(2), Idaho Code;

(b) If state lottery funds are insufficient to meet the state funding requirements of this section, then other state funds available pursuant to section 33-905(3), Idaho Code, shall be utilized; and

(c) If the funds in paragraphs (a) and (b) of this subsection (2) are insufficient to meet the state funding requirements of this section, then

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funds available pursuant to section 33-1018B, Idaho Code, shall be utilized.

(3) Moneys in a school district's school building maintenance fund shall be used exclusively for the maintenance and repair of school buildings, and shall be utilized, first, to abate serious or imminent safety hazards, as identified pursuant to chapter 80, title 39, Idaho Code. Unexpended moneys in a school district's school building maintenance fund shall be carried over from year to year. The replacement value of school buildings shall be determined by multiplying the number of square feet of building floor space in school buildings by eighty dollars (\$80.00). The joint finance-appropriations committee shall annually review the replacement value per square foot when setting appropriations for the educational support program, and may make adjustments to this figure as necessary. School districts shall submit the following to the state department of education by not later than December 1:

(a) The number of square feet of school building floor space; and

(b) The funds and fund sources deposited into the school district's school building maintenance fund and the fund balance carried forward from the prior fiscal year; and

(c) The projects on which moneys from the school district's school building maintenance fund were expended, and the amount and categories of expenditures from the fund; and

(d) The planned uses of moneys in the school district's school building maintenance fund.

The state department of education shall transmit a summary of such reports to the legislature by not later than January 15 of the following year.

(4) For the purposes of this section:

(a) "School building" means buildings that are owned by the school district or leased by the school district through a lease-purchase agreement and are occupied by students.

(b) "School district" means a school district or public charter school.

SECTION 9. That Chapter 80, Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a **NEW SECTION**, to be known and designated as Section 39-8006A, Idaho Code, and to read as follows:

39-8006A. BEST PRACTICES MAINTENANCE PLAN FOR SCHOOL BUILDINGS. The administrator of the division of building safety and the state department of education shall consult and shall draft a best practices maintenance plan for school buildings which shall be supplied to the superintendent of each school district. Based on the best practices maintenance plan, each school district shall develop a ten (10) year plan and submit it to the state department of education for approval. Annually thereafter, the school district shall submit a report to the state department of education detailing the work completed pursuant to the maintenance plan and any revisions to that plan.

SECTION 10. That Section 39-8011, Idaho Code, be, and the same is hereby amended to read as follows:

39-8011. VIOLATIONS. (1) If a school district, the district superintendent, principal, board of trustees, or other person in charge willfully violates the provisions of this chapter, the state superintendent of public instruction shall withhold such ensuing apportionments as are necessary to make repairs to abate the identified imminent safety hazard or serious safety hazard. Withheld funds, not to exceed one and one-half percent (1 1/2%) of the district's appropriation, shall be disbursed only to pay for such repairs.

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(2) If the funds that would be raised over two (2) fiscal years from applying the provisions of subsection (1) of this section are insufficient, in combination with all moneys that will be available in the district's school building maintenance fund for the same period, to provide sufficient moneys to abate the identified imminent or serious safety hazard, then the administrator shall submit an application to abate said hazard to the Idaho public school facilities cooperative funding program panel pursuant to section 33-909, Idaho Code.

(3) It is a misdemeanor to remove, without permission of the administrator, a notice or order posted pursuant to this chapter.

SECTION 11. That Section 63-2520, Idaho Code, be, and the same is hereby amended to read as follows:

63-2520. DISTRIBUTION OF MONEYS COLLECTED. Revenues received from the taxes imposed by this chapter, and any revenues received from licenses, permits, penalties, interest, or deficiency additions, shall be distributed by the tax commission as follows:

(a) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized under this chapter by the commission shall be paid through the state refund account, and those moneys are continuously appropriated.

(b) On and after July 1, 2005, the balance remaining with the state treasurer after deducting the amount described in subsection (a) of this section shall be distributed as follows:

(1) 17.3% of such balance shall be distributed to the permanent building fund created by section 57-1108, Idaho Code.

(2) 0.4% of such balance shall be distributed to the central tumor registry account. The amount of money so distributed to the central tumor registry account shall not exceed the fiscal year's appropriation, and at such time as the appropriation has been distributed to the central tumor registry account during any fiscal year, all such distributions in excess of the appropriation shall be made instead to the general fund of the state of Idaho.

(3) 1% of such balance shall be distributed to the cancer control account created by section 57-1702, Idaho Code. Revenues received in the cancer control account shall be paid over to the state treasurer by the state tax commission to be distributed as follows:

(i) Such amounts as are appropriated for purposes specified in section 57-1702, Idaho Code, shall be expended as appropriated;

(ii) Any balance remaining in the cancer control account on June 30 of any fiscal year after the amounts withdrawn by appropriation have been deducted, shall be reserved for transfer to the general fund on July 1 and the state controller shall order such transfer.

~~(4) 21.25% of such balance~~ An amount equal to the annual general fund appropriation for bond levy equalization, pursuant to section 33-906, Idaho Code, shall be annually distributed to the general fund. of the state of Idaho for the fiscal year commencing July 1, 2005 through June 30, 2006.

(5) All remaining moneys shall be distributed as follows: For the fiscal year commencing July 1, 2005, and ending June 30, 2006, all moneys shall be distributed to the economic recovery reserve fund created by section 67-3520, Idaho Code. For fiscal years on and after July 1, 2006, all

52 moneys shall be distributed to the permanent building fund with the moneys  
53 to be used for the repair, remodel and restoration of the state capitol

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1 building and state facilities pertaining to the capitol restoration until  
2 such time as the capitol restoration is adequately funded as certified by  
3 the director of the department of administration. Thereafter all moneys  
4 shall be distributed to the economic recovery reserve fund created by sec-  
5 tion 67-3520, Idaho Code.

6 SECTION 12. There is hereby transferred and appropriated \$25,000,000 from  
7 the General Fund to the Public School Facilities Cooperative Fund.

8 SECTION 13. NONSEVERABILITY. With the exception of Sections 4, 11 and 12  
9 of this act, the remaining provisions of this act are hereby declared to be  
10 nonseverable and if any provision of the remaining portions of this act or the  
11 application of such provision to any person or circumstance is declared  
12 invalid for any reason, such declaration shall render all such remaining por-  
13 tions of this act null, void and of no force or effect.

## Statement of Purpose / Fiscal Impact

### STATEMENT OF PURPOSE

RS 16178

The purpose of the School Facilities Improvement Act is to meet the Legislature's responsibility to provide a general, uniform and thorough system of public, free common schools. The Idaho Supreme Court has ruled that this responsibility requires that the Legislature provide for a system that guarantees that students will attend safe facilities. This legislation provides for such a system through the following three-part approach:

Bond Levy Equalization - The system of using bonded indebtedness as the primary tool for school districts to address major facility needs creates certain inequities, insofar as some school districts have higher property values than others. To address this issue, this legislation provides for a fully-indexed, securely-funded Bond Levy Equalization program. This program uses a similar approach as has been used, and found to be constitutional, in the funding of school district operational costs. Specifically, the program ensures that poorer school districts are provided with larger state subsidies, using a value index that measures relative property values, local unemployment rates, and local per capita income figures, as compared to the state average. This legislation removes artificial maximum subsidy amounts, allowing additional subsidies to flow to the poorest districts. It also provides the program with an adequate and sustainable funding source from current Cigarette Tax revenues that are not needed for Capitol restoration costs. While one-time appropriations of Lottery funds can be used to cover FY07 costs, beginning in FY07, all ongoing appropriations of school Lottery funds will again flow to school districts, for school building maintenance.

School Facilities Maintenance Fund - The current system lacks an absolute requirement that school districts allocate funds for building maintenance. Many of today's dilapidated school buildings would not have deteriorated to such a point had adequate building maintenance been performed. This legislation will help avert such future problems by requiring that 2% of the replacement value of school buildings be deposited in a school

building maintenance fund each year. While there is no requirement that all of these moneys be spent each year, they must at least be deposited in the fund, to accumulate against the day when they will be needed. This 2% allocation requirement also includes an equalized state funding match, which averages 0.5%, but which currently would range from 0.1% in the wealthiest district to over 1% in the poorest district.

Public School Facilities Cooperative Funding Program - The current system lacks a robust, failsafe mechanism for addressing school facility safety issues, in the event that a school district is simply unable or unwilling to correct the problem. Existing statutes provide authority to the Division of Building Safety to close an unsafe school. This does not address, however, what to do with the children who would be without a school. This legislation provides for a \$25 million Public School Facilities Cooperative Fund to remediate unsafe school facilities, as a last resort, if the school district has been unable or unwilling to solve the problem. A school district can apply to use the fund if they have attempted to pass a bond levy to address the problem and failed. The ultimate safeguard, however, is that the Division of Building Safety can apply on behalf of a school district, if the district cannot or will not act. State approval of a project, or a modified version of it, automatically refers the approved project to the voters in the school district, for one last attempt at bond passage. Failure of the bond then triggers up-front state funding of the project, and directs state supervision of the school district, to last until the project is completed. State funding of a project will also trigger a property tax levy in the school district, the proceeds of which will be deposited back in the Public School Facilities Cooperative Fund. The amount that school district taxpayers would pay into the fund would vary, depending on the levy rate, which is recalculated each year, and the district's relative wealth. Wealthier districts with low levy rates would likely pay one hundred percent (100%) of the project cost into the fund, while poorer districts with high levy rates would pay less. The levy could run for no more than 20 years, even if the school district share of costs has not been fully paid within that time period.

#### FISCAL IMPACT

In addition to the \$25 million in one-time surplus funds that are transferred from the General Fund to the Public School Facilities Cooperative Fund, FY 2007 ongoing expenditures for Bond Levy Equalization would increase from an original estimate of \$5.3 million to \$5.8 million. Also, ongoing state funding for school facilities maintenance would increase from \$8.9 million in FY 2006 to \$16.4 million. Ongoing funding increases would be funded by a mix of dedicated and General Funds.

#### Contact

Name: Speaker Bruce Newcomb, Representatives Lawrence Denney,  
Mike Moyle, Julie Ellsworth, Scott Bedke  
Senators Curt McKenzie, Shawn Keough  
Phone: (208) 332-1000